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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,348	04/02/2004	Juan Pablo Di Lelle	G&C 30566.325-US-01	3292

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EXAMINER

YANG, ANDREW GUS

ART UNIT	PAPER NUMBER
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2628

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/817,348	<b>Applicant(s)</b> DI LELLE ET AL.	
	<b>Examiner</b> Andrew Yang	<b>Art Unit</b> 2628	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over King, Jr. (U.S. Patent No. 5,608,849).

With respect to claim 1, King Jr. discloses an apparatus for generating image data in a computer system, comprising a computer system having a memory, a display and a user input means (computer in Fig. 1 for processing received information and displaying it in a useful way, column 4, lines 44-46), and one or more computer programs performed by the computer (column 6, lines 12-13) for performing a method of visual guidance for positioning images or data in three-dimensional space which comprises obtaining initial images or data by an imaging means or non-imaging probe located in three-dimensional space by a spatial locator and transmitting to and saving in a computer said image or data and their spatial location. The imaging means (and/or the non-imaging means) then obtains additional current images or data located in three-dimensional space by the spatial locator and transmits the images or data and their spatial location to the computer. The spatial relationship of the image or data currently provided by the imaging or non-imaging probe to the saved image or data previously obtained by the image or non-imaging probe is computed and the spatial relationship of

Art Unit: 2628

the current image or data to the previously obtained and saved image or data is displayed in an appropriately two or three-dimensional display. The displayed spatial relationship may be assessed by the operator and used to guide the positioning of the current image or data of the imaging probe (or non-imaging probe) to their desired location as shown in the display. The steps are repeated as necessary until the desired location is achieved. The current image or data and their spatial coordinates may be saved to computer memory when the position is satisfactory and the desired location is achieved. The steps of the method may be repeated as necessary until all images or data are satisfactorily positioned and saved (column 6, lines 62-67, column 7, lines 1-20). Thus, King, Jr. teaches obtaining images and using the spatial relationship between a current image and reference image by using the reference image as a guide for positioning the current image in three-dimensional space. It is noted that King, Jr. does not explicitly teach a defining a first image data as a first layer, but rather positioning a current (second image data) by using a reference image (reference pose layer) as a guide. However, King, Jr. discloses obtaining a plurality of images and it is well known to superimpose a second image data over a first image layer. Therefore, it would have been obvious to position the second image relative to a first obtained image, using the reference image as a guide, because this would accurately place a second image over a current image, which is essential in medical imaging.

With respect to claim 2, King, Jr. discloses the method as executed by the apparatus of claim 1 (see rationale for rejection of claim 1).

With respect to claim 3, King, Jr. discloses the computer program product for implementing the apparatus of claim 1 (see rationale for rejection of claim 1).

***Allowable Subject Matter***

Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

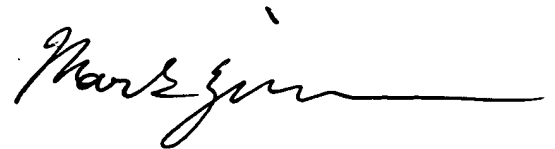
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Yang whose telephone number is (571) 272-5514. The examiner can normally be reached on 8:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Zimmerman can be reached on (571) 272-7653. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AGY

7/25/06



MARK ZIMMERMAN  
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